

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EMERSON RADIO CORPORATION,

Plaintiff,

v.

Civil Action No. 1:20-cv-1652

EMERSON QUIET KOOL CO. LTD. and
HOME EASY LTD.

Defendants.

REQUEST FOR ENTRY OF DEFAULT

Plaintiff Emerson Radio Corp. (“Plaintiff”), by and through its undersigned attorneys and pursuant to Federal Rule of Civil Procedure 55(a), respectfully requests that the Clerk enter Default against Defendants Emerson Quiet Kool Co. Ltd. and Home Easy Ltd. (collectively “Defendants”). In support of this Request, Plaintiff states as follows:

1. This case concerns whether Defendants are liable for infringement of Plaintiff’s intellectual property rights, unfair competition, false advertising, cybersquatting, and various violations of New Jersey State law because of Defendants’ sale and promotion of air conditioner and dehumidifier products under the brand EMERSON QUIET KOOL which Plaintiff alleges is confusingly similar to its various EMERSON trademarks and should be cancelled.

2. Plaintiff filed the initial verified complaint in this matter on July 21, 2017 in the District of New Jersey [D.I. 1] and each Defendant was served with the summons and complaint on July 25, 2017 [D.I. 6, 7].

3. Plaintiff filed a first amended verified complaint on September 19, 2017 [D.I. 30], which was served on then-counsel for Defendants [D.I. 10] via electronic filing. Defendants answered Plaintiff's first amended verified complaint on March 27, 2018 and asserted counterclaims [D.I. 57] to which Plaintiff answered on April 17, 2018 [D.I. 58]. Defendants have never raised a defense of insufficient service of process.

4. On December 3, 2020, this case was transferred pursuant to 28 U.S.C. § 1404(a) to the District of Delaware. [D.I. 141]. Following transfer, Defendants' counterclaims were dismissed with prejudice on October 15, 2021 [D.I. 199 (So Ordered)] and certain of Defendants affirmative defenses were resolved on summary judgment [D.I. 204] and by agreement of Defendants [D.I. 209].

5. On November 23, 2021, then-counsel for Defendants Panitch Schwarze Belisario & Nadel ("PSB&N") filed a motion to withdraw [D.I. 208], which Plaintiff opposed on December 2, 2021 [D.I. 211], and PSB&N replied on December 3, 2021 [D.I. 212] pursuant to the briefing schedule set by the Court [D.I. 210].

6. On December 8, 2021, the Court granted the motion to withdraw and ordered that "substitute counsel for Defendants must enter an appearance no later than December 15, 2021" and that "[f]ailure to do so will result in entry of default, provided that Plaintiff's file an appropriate motion." [D.I. 214].

7. Substitute counsel for Defendants failed to enter an appearance by December 15, 2021 as ordered by the Court and therefore are in default pursuant to the Court's December 8, 2021 order. [D.I. 214].

8. Defendants have acknowledged receipt of the Court's December 8, 2021 order [D.I. 216] and are corporate entities that are neither minors nor incompetent persons and cannot appear *pro se*.

WHEREFORE, Plaintiff respectfully requests that the Clerk enter each Defendants' default.

Dated: December 16, 2021.

Respectfully submitted,

s/ Stacey A. Scrivani
Stacey A. Scrivani (No. 6129)
STEVENS & LEE
919 N. Market Street, Suite 1300
Wilmington, DE 19801
Tel: 302-425-3306
stacey.scrivani@stevenslee.com

Mark H. Anania (*pro hac vice*)
STEVENS & LEE
669 River Drive, Suite 201
Elmwood Park, NJ 07407
Tel: 201-857-6769
mark.anania@stevenslee.com

Of Counsel:
Bobby Ghajar (*pro hac vice*)
COOLEY LLP
1333 2nd Street, Suite 400
Santa Monica, CA 90401
Tel: 310-883-6400
bghajar@cooley.com

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2021, I served the enclosed Request for Entry of Default via hand delivery and overnight mail on the following:

Emerson Quiet Kool Co. Ltd.
1275 Bloomfield Avenue, Unit 141, Building 16,
Fairfield, New Jersey 07004

Home Easy Ltd.
1275 Bloomfield Avenue, Unit 141, Building 16,
Fairfield, New Jersey 07004

s/ Stacey A. Scrivani
Stacey A. Scrivani (No. 6129)